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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

STEVE RABIN, on behalf of himself, and
 all others similarly situated,

Plaintiff,

v.

PRICEWATERHOUSECOOPERS LLP,

Defendant.

Case No. _____

**COMPLAINT FOR VIOLATIONS OF
 ADEA AND STATE LAWS**

CLASS AND COLLECTIVE ACTION

DEMAND FOR JURY TRIAL

1 Individual and Representative Plaintiff Steve Rabin (“Plaintiff” or “Rabin”), on behalf of
2 himself and all others similarly situated, alleges, upon personal knowledge as to himself and
3 upon information and belief as to other matters, as follows:

4 **SUMMARY OF CLAIMS**

5 1. This is a class and collective action brought by applicants to Defendant
6 PricewaterhouseCoopers LLP (“PwC”) alleging violations of the Age Discrimination in
7 Employment Act of 1967, as amended, 29 U.S.C. §§ 621, *et seq.* (“ADEA”) as well as the
8 California Fair Employment and Housing Act, Cal. Gov. Code §§ 12900, *et seq.* (“FEHA”).
9

10 **PwC**

11 2. PwC is a global accounting and auditing firm. The firm has offices in 157
12 countries and over 208,000 employees worldwide. The firm is also very profitable. For the year
13 ending June 30, 2015, PwC’s global gross revenues were \$35.4 billion.

14 3. PwC classifies its accountants in the following general hierarchy: Junior
15 Associates, Associates, Experienced and/or Senior Associates, Junior Managers, Managers,
16 Senior Managers, Junior Directors, Directors, Senior Directors. Above those individuals are
17 Partners, Managing Partners, a Board of Partners and Principals of PwC, and a Global Board of
18 the PwC global network of affiliated entities.
19

20 4. PwC prides itself on attracting and retaining young workers. PwC has conducted
21 extensive research on maintaining a workforce of Millennials. In 2013, PwC commissioned the
22 largest, most comprehensive global generational study ever conducted of Millennial employees
23 and how to retain them. PwC generally does not hire older individuals for its Associate and
24 other entry-level positions. Rather, it generally hires younger individuals, with an emphasis on
25 hiring through on-campus hiring.
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1 **Discrimination against older workers**

2 5. PwC's culture and practices have distributed the benefits of its enormous success
3 unequally—systematically favoring younger applicants at the expense of their older counterparts.
4 Individuals 40 years of age and older are rarely in an Associate position at PwC.

5 6. PwC maintains hiring policies and practices for giving preference to younger
6 employees that result in the disproportionate employment of younger applicants. PwC's
7 unlawful bias against older workers manifests itself in several ways, including but not limited to:
8 (1) a near-exclusive reliance on a recruitment system for entry-level accounting positions that
9 requires applicants to be affiliated with a university, (2) a focus on attracting and retaining
10 "Millennials," and (3) a mandatory early retirement policy that requires Partners to retire by age
11 60. As a result of this bias against older workers, older accountants who are equally or more
12 qualified have been systematically excluded from the career opportunities that are afforded to
13 people who work for PwC.

14 7. The underrepresentation of workers over age 40 at PwC is stark. In its 2011 U.S.
15 Corporate Responsibility Summary Report, PwC boasted that the average age of its workforce
16 was 27, and that two out of three PwC employees were in their 20s and early 30s. Of that group,
17 75% reported that PwC was their first job out of college. According to its own figures, in 2016,
18 almost 80% of PwC employees will be Millennials, individuals between the ages of 21 and 36.
19 Not surprisingly, the number of workers 40 years of age and older in entry-level and lower to
20 mid-level positions is stunningly low.

21 8. PwC's demographics sharply diverge from the relevant labor pool. According to
22 the U.S. Department of Labor's Bureau of Labor Statistics' 2013 Labor Force Statistics, the
23 median age of accountants and auditors in the United States is 43.2 years old. Approximately
24 25 26 27 28

1 35% of accountants and auditors nationwide are Millennials. At 80% of its workforce,
2 Millennials are vastly overrepresented at PwC, and employees ages 40 and older are notably
3 underrepresented in its workforce.

4 9. According to a 2013 industry study by CareersinAudit.com, 57% of accountants
5 believe that ageism is prevalent in the industry. Forty-seven percent believe that accountants 40
6 years of age or older find it difficult to get promoted or to get a new job. Of the survey
7 participants ages 50 and over, 37% believe they had missed out on career opportunities because
8 of their age.
9

10 **PwC's recruiting and hiring**

11 10. PwC has three main channels, or "tracks," for recruiting and hiring—Campus,
12 Experienced, and Executive. PwC fills Junior Associate, Associate, and other entry-level
13 positions straight out of college through the Campus track. PwC recruits applicants for
14 Experienced and/or Senior Associate and Manager positions through its Experienced track.
15 Plaintiff challenges PwC's hiring policies and practices with respect to its Campus track hiring,
16 as well as a portion of its Experienced track hiring (i.e., non-management Experienced and/or
17 Senior Associate positions). Executive track hiring is not at issue here.
18

19 11. PwC's recruiting and hiring policies, patterns, and/or practices have a disparate
20 impact on applicants 40 years of age or older because they deter applicants 40 years of age or
21 older from applying and disfavor hiring those applicants 40 years of age or older who do apply.
22 Specifically, its Campus track recruiting results in disproportionately higher employment of
23 younger employees than their older comparators. This is because PwC generally does not post
24 job openings for Associate and other entry-level positions on its website, even though it regularly
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1 posts job openings for “Experienced” hires on its website. The only way to apply to these
2 positions is through PwC’s Campus track recruitment tool, which requires a college affiliation.

3 12. In addition, PwC has a continuing policy, pattern, and/or practice of subjecting all
4 Associate applicants 40 years of age or older to disparate treatment. Namely, PwC intentionally
5 disfavors hiring people 40 years of age or older for both entry-level and Experienced-level
6 Associate positions. Upon information and belief, when applicants 40 years of age or older
7 apply for an Associate position, regardless of level, PwC intentionally screens them out and
8 denies them employment opportunities because of their age.

9 13. These policies, patterns, and/or practices are no accident. Rather, they are part
10 and parcel of PwC’s corporate culture. PwC has intentionally implemented these company-wide
11 policies and practices throughout the United States in order to maintain its youthful culture.
12 PwC’s policies and practices have the effect of deterring prospective applicants ages 40 and
13 older from applying and denying job opportunities to those individuals ages 40 and older who do
14 apply. PwC provides compliance consulting services and undoubtedly understands the
15 consequences of its own recruitment policies and practices.

16 14. PwC also requires Partners to retire at the age of 60. Therefore, the closer an
17 applicant is to the age of 60, the less time PwC would employ that individual as a Partner and the
18 less return on investment an applicant can offer PwC. Because of the organization’s mandatory
19 retirement policy, PwC’s hiring personnel are incentivized to hire applicants under 40 years of
20 age.

21 15. Older applicants denied employment at PwC continue to experience repercussions
22 stemming from PwC’s discriminatory hiring protocols throughout their careers. Because many
23 jobs in the accounting field require applicants to have previous employment at PwC, KPMG,
24

1 Deloitte, or Ernst & Young (collectively known as the Big 4), accountants ages 40 and older are
2 shut out of future business opportunities and professional growth as a result of PwC's
3 discriminatory policies.

4 16. Accordingly, in addition to bringing this action on his own behalf, Plaintiff also
5 brings this action on behalf of a class and collective of similarly situated applicants 40 years of
6 age or older who have been (1) denied employment in Junior Associate, Associate, Experienced
7 Associate, or Senior Associate or comparable positions (the "Covered Positions") and/or (2)
8 deterred from applying to work in the Covered Positions at PwC, in order to end PwC's
9 discriminatory policies and/or practices and to make the class and collective whole.
10

11 **JURISDICTION AND VENUE**

12 17. This Court has original subject matter jurisdiction over the ADEA claims
13 pursuant to 28 U.S.C. § 1331 and Section 7(c) of the ADEA, 29 U.S.C. § 626(c).

14 18. This Court has supplemental jurisdiction over the FEHA claims under 28 U.S.C.
15 § 1367, because they arise from a common nucleus of operative facts with the federal claims and
16 are so related to the federal claims as to form part of the same case or controversy under Article
17 III of the United States Constitution.
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19 19. The United States District Court for the Northern District of California has
20 personal jurisdiction over PwC because the firm does business in California and in this District,
21 and because the acts complained of and giving rise to the claims alleged occurred in and
22 emanated from this District.
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24 20. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a
25 substantial part of the events giving rise to the claims occurred in this District.
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1 21. Plaintiff has exhausted his administrative remedies and complied with all
2 statutory prerequisites to his ADEA claims. Rabin filed a charge of age discrimination on or
3 about December 11, 2013 with the Equal Employment Opportunity Commission (“EEOC”). He
4 subsequently filed an amended charge of discrimination specifically alleging class-wide claims
5 on behalf of all similarly situated individuals age 40 or older denied employment by PwC on
6 August 14, 2014. Sixty days have passed since the filing of this amended charge. 29 U.S.C. §
7 626(d)(1).
8

9 22. Pursuant to the EEOC’s work-sharing agreement with the California Department
10 of Fair Employment and Housing (“DFEH”), his charge and amendment are considered dually
11 filed with the DFEH. By notice dated December 17, 2013, the DFEH dismissed Rabin’s case
12 and issued a Notice of Right to Sue.
13

14 23. Any and all other prerequisites to the filing of this suit have been met.
15

PARTIES

Plaintiff Steve Rabin

17 24. Plaintiff Steve Rabin is a Certified Public Accountant, who lives in Fremont,
18 California. He graduated from the California Institute of Technology with a B.S. in
19 Mathematics. He is a citizen of the United States. He was born in 1962 and is now 53 years old.
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21 25. In or around October 2013, at the age of 50, Rabin applied for the position of
22 Seasonal Experienced Associate with PwC. His employment application was directed to PwC’s
23 San Jose office. That same month, PwC notified him that it had rejected his application.
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Defendant PwC

26. Upon information and belief, Defendant PwC is a Delaware limited partnership formed under the laws of the State of Delaware with a place of business within San Francisco, and County of San Francisco at Three Embarcadero Center San Francisco, California 94111.

27. Upon information and belief, Defendant PwC maintains control, oversight, and direction over the operation of its facilities, including its employment practices.

28. Defendant PwC interviewed Plaintiff for a position and rejected his application, with the purpose and effect of denying him employment because of his age.

29. On information and belief, Defendant PwC employs over 184,000 people worldwide. At the end of fiscal year 2015, PwC employed 53,656 people in its North American and Caribbean region. Hundreds or thousands of potential class members have applied, attempted to apply, or been interested in applying to the Covered Positions during the relevant time period.

FACTUAL ALLEGATIONS

30. PwC has three main channels, or “tracks,” for recruiting and hiring—Campus, Experienced, and Executive. PwC fills Junior Associate, Associate, and other entry-level positions through its Campus track. The Experienced track recruits applicants for Experienced and/or Senior Associate and Manager positions. Plaintiff challenges PwC’s hiring policies and practices with respect to its Campus track hiring, as well as a portion of its Experienced track hiring (i.e., non-management Experienced and/or Senior Associate positions). Executive track hiring is not at issue here.

31. PwC maintains uniform employment policies throughout the United States. It cultivates and promotes a common human resources strategy to recruit and maintain a young

1 workforce. Indeed, PwC conducted the “largest, most comprehensive global generational study
2 ever conducted” into how to attract and keep “Millennials.” This study interviewed 1,000
3 Millennials and conducted 44,000 web-based surveys over 18 territories.

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5 32. In a 2014 Harvard Business Review article, the U.S. Chairman of PwC trumpeted
6 PwC’s “strikingly young” workforce: “Because we recruit approximately 8,000 graduates
7 annually from college and university campuses, two-thirds of our people are in their twenties and
8 early thirties. We’ve always employed large numbers of young people.” According to its FY
9 2013 U.S. Corporate Responsibility Report, PwC hired approximately 3,200 Experienced hires
10 and approximately 9,000 Campus hires. According to a 2016 article in The Atlantic, today PwC
11 recruits about 11,000 new hires on college campuses each year.

12
13 **Campus Recruitment Track**

14 33. PwC offices throughout the country use common employment policies to deter
15 and screen out applicants ages 40 and older. The Campus track recruits applicants straight out of
16 college. PwC fills entry-level positions such as Junior Associate and Associate through Campus
17 hiring, and has designated recruiters for different schools. PwC also hires college students as
18 interns (who may then be offered entry-level positions).

19
20 34. Individuals not affiliated with a college campus cannot apply to entry-level
21 positions at PwC. Entry-level positions are rarely advertised to the general public. Interested
22 applicants can browse the handful of entry-level job postings that are sometimes listed on PwC’s
23 Campus track webpage under the “Featured Jobs” section. However, applicants cannot submit
24 an application for these “Featured Jobs” without going through the Campus recruiting tool.
25 Interested applicants may also browse the jobs posted on the Experienced track webpage, but
26 entry-level accounting positions are generally not advertised there. To apply for an entry-level
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1 accounting position, applicants must therefore conduct their job searches either through a
2 designated school recruiter or through PwC's Campus webpage—a recruitment tool that, on its
3 face, targets younger, college-aged applicants. To submit their applications for entry-level
4 positions through this webpage, applicants must list their college affiliation and college year
5 (freshman, sophomore, junior, senior, or graduate student). These fields are mandatory,
6 precluding individuals who are no longer in school from submitting an application.
7

8 **Experienced Track**

9 35. PwC's second hiring channel, the Experienced hire track, posts open positions for
10 Experienced and/or Senior Associates. Although anyone may *apply* for positions in this track,
11 PwC's unlawful bias against older workers, including its focus on attracting and retaining
12 "Millennials" and its mandatory early retirement policy, systematically decreases older workers'
13 chances of being hired. Due to this bias, PwC intentionally denies applicants ages 40 and older
14 employment in the Covered Positions because of their age.
15

16 **Professional Support**

17 36. According to its FY 2013 U.S. Corporate Responsibility Report, PwC uses a
18 series of programs that introduce college students to the accounting profession. These programs
19 provide college students with opportunities to grow professionally while simultaneously getting
20 to know the firm. They include PwC's "Personal Brand Experience," which offers an
21 opportunity for individuals to focus on the unique characteristics that can make them stand out
22 from the crowd, and "Explore," which introduces freshman and sophomore college students to
23 the accounting profession while developing their teamwork, strategic thinking, problem-solving,
24 and leadership skills.
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1 37. According to its FY 2013 U.S. Corporate Responsibility Report, PwC also assigns
2 interns an associate coach, a career coach, and a relationship partner.

3 38. PwC offers all employees coaching, mentorship, and training to provide career
4 advancement. PwC employees receive world-class learning opportunities through a system
5 called "Learning at PwC," where they have access to an in-depth catalogue of learning programs
6 and specialized courses. This training program has been ranked number one for three years by
7 Training magazine in its "Training Top 125," which recognizes "the organizations with the most
8 successful learning and development programs in the world." Because of the opportunities it
9 provides employees, PwC has repeatedly been named as one of the top three places to launch a
10 career by BusinessWeek.
11

12 39. By disproportionately hiring young applicants, PwC deprives class and collective
13 members of invaluable professional support that leads to future business and growth
14 opportunities.
15

16 **Employment Policies**

17 40. PwC maintains a uniform employment policy of exclusively conducting hiring for
18 entry-level accounting positions, such as Junior Associate or Associate, through its Campus track
19 hiring. By not advertising the overwhelming majority of entry-level accounting positions
20 anywhere except on college campuses and, sometimes, behind a log-in wall on its Campus
21 webpage that only those affiliated with a college can access, PwC makes it nearly impossible for
22 non-students to apply for entry-level accounting positions. To submit an application for an
23 entry-level position through PwC's Campus webpage, applicants must list their college
24 affiliation and college year (freshman, sophomore, junior, senior, or graduate student).
25 Applicants ages 40 and over who are no longer affiliated with an educational institution cannot
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1 answer these questions, and consequently, cannot submit their application. As a result of this
2 recruitment policy, PwC discriminates against prospective applicants ages 40 and older.

3 41. In advertising its career opportunities, PwC almost exclusively uses pictures of
4 young people. The “Campus” track webpage and the “Experienced” track webpage feature a
5 young-looking male and female. On its website, PwC also advertises that in 2016, 80% of its
6 workforce will be a “Millennial,” and touts its efforts to attract and keep these “Millennials” in a
7 prominently posted report. Earlier this year, PwC even rolled out a new perk targeted at
8 “Millennials”: student loan repayment assistance. On its “Diversity” webpage, PwC boasts of
9 company initiatives and support systems for many other groups, including minorities, women,
10 parents, the LGBT community, disabled workers, and veterans. These initiatives include
11 Minority Circles, Women’s Networking Circles, Parenting Circles, Professionals with
12 Disabilities Network, Lesbian, Gay, Bisexual and Transgender Circles, an LGBT Partner
13 Advisory Board, a Disability Strategy Council, Connect (a mentoring program for disabled
14 employees), and Veteran’s Network (a program that helps veterans obtain transition support and
15 career development opportunities). In contrast, there is not a single initiative focused on the
16 needs or interests of older workers. Similarly, information on the “Family” section of PwC’s
17 “Diversity” webpage is focused on benefits that are primarily of interest to younger workers.
18 There is extensive information about the company’s generous, fully-paid parental leave policies
19 for new parents, but very little about benefits that older workers are more likely to take
20 advantage of, such as time off to care for a sick parent or spouse. By using photos of young
21 people, advertising its disproportionately young workforce, announcing its desire to maintain
22 that youthful workforce, designing benefits packages specifically for younger workers, and
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1 largely ignoring the needs of older workers, PwC deters prospective applicants ages 40 and older
2 from applying.

3 42. PwC also intentionally disfavors hiring people 40 years of age or older for the
4 Covered Positions. PwC is very proud of its inordinately young workforce. In order to continue
5 to attract and maintain “Millennials,” PwC intentionally screens out individuals ages 40 and
6 older who apply for the Covered Positions and denies them employment opportunities.

7 43. PwC also has a mandatory retirement age of 60 for Partners. As a result,
8 applicants ages 40 or over are less attractive to hiring personnel because their potential
9 contributions to PwC appear limited when compared to those of similarly situated younger
10 applicants. Because of PwC’s mandatory retirement policy, PwC’s hiring personnel are
11 disincentivized from hiring applicants 40 years of age or older.

12 44. Together, PwC’s uniform employment policies systematically exclude and deter
13 applicants and prospective applicants ages 40 and older.

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16 **Business Opportunities**

17 45. Business opportunities in the accounting profession are determined, at least in
18 part, by “Big 4” experience—meaning previous employment at PwC, Deloitte, KPMG, or Ernst
19 & Young. Because having Big 4 experience is so critical to obtaining good jobs in the
20 accounting profession, by not posting entry-level job openings on its website and only accepting
21 applications for these positions from college students, and by intentionally screening out
22 applicants ages 40 and older for the Covered Positions, PwC deprives applicants and prospective
23 applicants ages 40 and older from both current and future business opportunities. Thus, age
24 disparities in PwC’s allocation of business opportunities perpetuate age discrimination in the
25 accounting sector as a whole.
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1 **Conclusion**

2 46. Accordingly, Plaintiff brings this class and collective action on behalf of himself,
3 individually, and all similarly situated applicants and prospective applicants ages 40 and older in
4 the United States. This action seeks to end PwC's discriminatory policies, patterns, and/or
5 practices, and to make the class and collective whole by requesting the following remedies:
6 injunctive relief to remedy systemic age discrimination; an award of back pay and front pay;
7 liquidated damages; compensatory and punitive damages; and attorneys' fees.
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9 **COLLECTIVE ACTION ALLEGATIONS**

10 47. Plaintiff brings this collective action pursuant to 29 U.S.C. §§ 216(b), 626(b)
11 seeking liability-phase injunctive and declaratory relief on behalf of a collective of all applicants
12 and deterred prospective applicants for the Covered Positions ages 40 and older in the United
13 States at any time from October 18, 2013 through the resolution of this action for claims under
14 the ADEA. Plaintiff also brings this collective action pursuant to 29 U.S.C. §§ 216(b), 626(b)
15 for monetary damages and other make-whole relief on behalf of a collective of all applicants and
16 deterred prospective applicants for the Covered Positions ages 40 and older in the United States
17 at any time from October 18, 2013 through the resolution of this action for claims under the
18 ADEA.
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21 48. Plaintiff and other potential members of the collective are similarly situated in
22 that they have all sought and been denied or were deterred from applying for the Covered
23 Positions at PwC by policies and practices that have the purpose and effect of denying them
24 employment opportunities because of their age.
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1 49. There are many similarly situated collective members who would benefit from the
2 issuance of a court-supervised notice of the present lawsuit and the opportunity to join the
3 present lawsuit. Notice should be sent to the collective pursuant to 29 U.S.C. §§ 216(b), 626(b).
4

5 50. As part of its regular business practice, PwC has intentionally, willfully, and
6 repeatedly engaged in a pattern, practice, and/or policy of violating the ADEA with respect to
7 Plaintiff and the collective. This policy and pattern or practice includes, but is not limited to:

- 8 a. willfully utilizing a biased recruiting system for entry-level accounting
9 hiring that excludes, deters, and discriminates against workers ages 40 and
10 over; and
11 b. willfully implementing a mandatory early retirement policy that deters and
12 discriminates against applicants ages 40 and over for the Covered Positions;
13 c. willfully refusing to hire applicants ages 40 and over for the Covered
14 Positions.

15 51. PwC maintained and implemented these policies and practices with the purpose
16 and effect of denying Plaintiff and other members of the collective employment opportunities
17 because of their age. These policies cannot be justified on the basis of reasonable factors other
18 than age.

19 52. PwC is aware or should have been aware that federal law requires it to conduct
20 recruitment and hiring for the Covered Positions without regard to an applicant's age.

21 **CLASS ACTION ALLEGATIONS**

22 53. Plaintiff also brings this class action pursuant to Federal Rules of Civil
23 Procedure 23(a), (b)(2), and (c)(4) seeking liability-phase injunctive and declaratory relief on
24 behalf of a class of all applicants and deterred prospective applicants ages 40 and older for the
25 Covered Positions in California at any time from August 14, 2013 through the resolution of this
26 action for claims under the FEHA. Plaintiff also brings this class action pursuant to
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1 Federal Rules of Civil Procedure 23(a) and (b)(3) for monetary damages and other make-whole
 2 relief on behalf of a class of all applicants and deterred prospective applicants ages 40 and older
 3 for the Covered Positions in California at any time from August 14, 2013 through the resolution
 4 of this action for claims under the FEHA. Plaintiff reserves the right to amend the definition of
 5 the class based on discovery or legal developments.
 6

7 54. Plaintiff is a member of the class he seeks to represent.

8 55. The members of the class identified herein are so numerous that joinder of all
 9 members is impracticable. As of June 2015, PwC employs over 208,000 employees worldwide
 10 and approximately 53,000 in the North American region. Although Plaintiff does not know the
 11 precise number of all applicants and deterred prospective applicants ages 40 and older of PwC,
 12 the number is far greater than can be feasibly addressed through joinder.
 13

14 56. There are questions of law and fact common to the class, and these questions
 15 predominate over any questions affecting only individual members. Common questions include,
 16 among others:

- 17 (a) whether PwC's policies or practices exclude prospective applicants ages
 18 40 and over from applying to the Covered Positions;
- 19 (b) whether PwC's policies or practices deter prospective applicants ages 40
 20 and over from applying to the Covered Positions;
- 21 (c) whether PwC's policies or practices discriminate against applicants and
 22 deterred prospective applicants ages 40 and older;
- 23 (d) whether PwC intentionally disfavors applicants ages 40 and older;
- 24 (e) whether PwC's policies and practices violate the FEHA;
- 25 (f) whether PwC's challenged policies or practices are necessary to its
 26 business operations;
- 27 (g) whether age is a bona fide occupational qualification; and
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1 (h) whether equitable remedies, injunctive relief, compensatory damages, and
2 punitive damages for the class are warranted.

3 57. The Representative Plaintiff's claims are typical of the claims of the class.

4 58. The Representative Plaintiff will fairly and adequately represent and protect the
5 interests of the members of the class. Plaintiff has retained counsel competent and experienced
6 in complex class actions, employment discrimination litigation, and the intersection thereof.

7 59. Class certification is appropriate pursuant to Federal Rule of Civil
8 Procedure 23(b)(2) because PwC has acted and/or refused to act on grounds generally applicable
9 to the class, making appropriate declaratory and injunctive relief with respect to Plaintiff and the
10 class as a whole. The class members are entitled to injunctive relief to end PwC's common,
11 uniform, unfair, and discriminatory policies and practices.
12

13 60. Class certification is also appropriate pursuant to Federal Rule of Civil Procedure
14 23(b)(3) because common questions of fact and law predominate over any questions affecting
15 only individual members of the class, and because a class action is superior to other available
16 methods for the fair and efficient adjudication of this litigation. The class members have been
17 damaged and are entitled to recovery as a result of PwC's common, uniform, unfair, and
18 discriminatory policies and practices. The propriety and amount of punitive damages are based
19 on PwC's conduct, making these issues common to the class.
20

21 **CLAIMS OF REPRESENTATIVE PLAINTIFF**

22 **Steve Rabin**

23 61. Plaintiff Steve Rabin is a 53-year-old Certified Public Accountant with over ten
24 years of accounting experience. Notwithstanding his experience, Rabin is willing to take even an
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1 entry-level job at PwC because having Big 4 experience is so critical to obtaining good jobs in
2 the accounting profession.

3 62. However, because PwC generally does not post entry-level accounting jobs on its
4 website and only accepts applications for these positions from college students, Rabin was not
5 able to apply for an entry-level accounting position.
6

7 63. In October 2013, Rabin applied for a position of Seasonal Experienced Associate,
8 generally one of the lower-level positions on an audit team, in the San Jose, California office of
9 PwC.

10 64. On or around October 22, 2013, PwC interviewed him. The interview process
11 consisted of an in-person meeting and a meeting via conference call. During the course of the
12 interview, the interviewer, a Senior Assurance Manager (approximate age 35) asked Plaintiff,
13 “The people in the cubicles are much younger than you. How would you fit in? Would you be
14 able to work for a younger manager or director?” Rabin responded that he had worked for a
15 younger manager in the past, found it to be beneficial, and that he enjoyed the experience.
16

17 65. Even though Rabin was qualified for the position in all respects, he was told he
18 was not selected for the position in late October 2013.
19

20 66. Instead, on information and belief, PwC hired a substantially younger individual
21 who was not more qualified than Rabin to fill the position.

22 67. On or about December 2013, Rabin filed a charge of age discrimination with the
23 EEOC.

24 68. On or about August 14, 2014, he filed an amended charge of discrimination with
25 the EEOC specifically alleging class-wide claims on behalf of all similarly situated individuals
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28

age 40 or older who were either deterred from applying or denied employment by PwC because of their age.

69. This charge and amendment are considered dually filed with the DFEH pursuant to the EEOC's work-share agreement with the DFEH. The DFEH issued a Notice of Right to Sue on December 17, 2013.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

Intentional Discrimination

(Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 623(a)(1))

(On Behalf of Plaintiff and the Collective)

70. Plaintiff incorporates the preceding paragraphs as alleged above.

71. This Claim is brought by Representative Plaintiff on behalf of himself and the collective he represents. Plaintiff has timely filed charges with the EEOC and has thus exhausted his administrative remedies. Sixty days have passed since Plaintiff has filed charges with the EEOC.

72. PwC engages in an intentional, company-wide, and systematic policy, pattern, and/or practice of discrimination against applicants and prospective applicants ages 40 and older. PwC has intentionally discriminated against Plaintiff and the collective in violation of the ADEA by, among other things:

- (a) Utilizing a biased recruitment system that deters prospective applicants ages 40 and older from applying for the Covered Positions;
- (b) Utilizing a biased recruitment system that excludes prospective applicants ages 40 and older from applying for the Covered Positions;
- (c) Utilizing a biased recruitment system that discriminates against prospective applicants ages 40 and older;

- (d) Implementing a mandatory early retirement policy that deters applicants ages 40 and over from applying to the Covered Positions;
- (e) Implementing a mandatory early retirement policy that causes PwC to discriminate against applicants ages 40 and over who apply to the Covered Positions; and
- (f) Systematically and intentionally discriminating against applicants ages 40 and older throughout the hiring process.

73. These company-wide policies are intended to and do have the effect of denying Plaintiff and the collective employment opportunities because of their age. The discriminatory acts that constitute PwC's pattern and/or practice of discrimination have occurred both within and outside the liability period in this case.

74. Age is not a bona fide occupational qualification for the Covered Positions.

75. As a direct result of PwC's discriminatory policies and/or practices as described above, Plaintiff and the collective have suffered damages including, but not limited to, lost past and future income, compensation, and benefits.

76. The foregoing conduct constitutes illegal, intentional discrimination and unjustified disparate treatment prohibited by 29 U.S.C. § 623(a)(1).

77. Plaintiff requests relief as hereinafter described.

SECOND CLAIM FOR RELIEF

Disparate Impact Discrimination **(Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 623(a)(2))** **(On Behalf of Plaintiff and the Collective)**

78. Plaintiff incorporates the preceding paragraphs as alleged above.

79. This Claim is brought by Representative Plaintiff on behalf of himself and the collective he represents. Plaintiff has timely filed charges with the EEOC and has thus exhausted

1 his administrative remedies. Sixty days have passed since Plaintiff has filed charges with the
2 EEOC.

3 80. PwC maintains discriminatory policies, patterns, and/or practices that have an
4 adverse impact on applicants and prospective applicants ages 40 and older in violation of the
5 ADEA and are not, and cannot be, justified by reasonable factors other than age, including but
6 not limited to the following: its near-exclusive reliance on “Campus” track hiring to fill entry-
7 level accounting positions, its requirement that applicants for entry-level positions be currently
8 affiliated with a college or university, its failure to advertise the vast majority of open entry-level
9 positions to the general public, its preference for hiring and retaining “Millennials,” and its
10 mandatory early retirement policy.
11

12 81. PwC has maintained these discriminatory policies, patterns, and/or practices both
13 within and outside the liability period in this case.
14

15 82. As a direct result of PwC’s discriminatory policies and/or practices as described
16 above, Plaintiff and the collective have suffered damages including, but not limited to, lost past
17 and future income, compensation, and benefits.

18 83. The foregoing policies, patterns, and/or practices have an unlawful disparate
19 impact on applicants and prospective applicants ages 40 and older in violation of by 29 U.S.C. §
20 623(a)(2).
21

22 84. Plaintiff requests relief as hereinafter described.

23 **THIRD CLAIM FOR RELIEF**

24 **Intentional Discrimination** 25 **(California Fair Employment and Housing Act, Cal. Gov’t Code § 12940(a))** 26 **(On Behalf of Plaintiff and the Class)**

27 85. Plaintiff incorporates the preceding paragraphs as alleged above.
28

1 86. This Claim is brought by Representative Plaintiff on behalf of himself and the
2 class he represents. Plaintiff has timely filed charges with the DFEH and has thus exhausted his
3 administrative remedies.

4 87. PwC engages in an intentional, company-wide, and systematic policy, pattern,
5 and/or practice of discrimination against applicants and prospective applicants ages 40 and older.
6 PwC has intentionally discriminated against Plaintiff and the class in violation of the FEHA by,
7 among other things:
8

- 9 (a) Utilizing a biased recruitment system that deters prospective applicants
10 ages 40 and older from applying for the Covered Positions;
- 11 (b) Utilizing a biased recruitment system that excludes prospective applicants
12 ages 40 and older from applying for the Covered Positions;
- 13 (c) Utilizing a biased recruitment system that discriminates against
14 prospective applicants ages 40 and older;
- 15 (d) Implementing a mandatory early retirement policy that deters applicants
16 ages 40 and over from applying to the Covered Positions;
- 17 (e) Implementing a mandatory early retirement policy that causes PwC to
18 discriminate against applicants ages 40 and over who apply to the Covered
19 Positions; and
- 20 (f) Systematically and intentionally discriminating against applicants ages 40
21 and older throughout the hiring process.

22 88. These company-wide policies are intended to and do have the effect of denying
23 Plaintiff and class members employment opportunities because of their age. The discriminatory
24 acts that constitute PwC's pattern and/or practice of discrimination have occurred both within
25 and outside the liability period in this case.

26 89. PwC has set and/or maintained these discriminatory policies, patterns, and/or
27 practices during the liability period within the state of California, and the discriminatory policies,
28

1 patterns, and/or practices have had a discriminatory impact on applicants and prospective
2 applicants ages 40 and older within the state of California.

3 90. Age is not a bona fide occupational qualification for the Covered Positions.

4 91. As a direct result of PwC's discriminatory policies and/or practices as described
5 above, Plaintiff and the class have suffered damages including, but not limited to, lost past and
6 future income, compensation, and benefits.

7 92. The foregoing conduct constitutes illegal, intentional discrimination prohibited by
8 California Government Code section 12940(a).

9 93. Plaintiff requests relief as hereinafter described.

10 **FOURTH CLAIM FOR RELIEF**

11 **Disparate Impact Discrimination**
12 **(California Fair Employment and Housing Act, Cal. Gov't Code §§ 12940(a), 12491)**
13 **(On Behalf of Plaintiff and the Class)**

14 94. Plaintiff incorporates the preceding paragraphs as alleged above.

15 95. This Claim is brought by Representative Plaintiff on behalf of himself and the
16 class he represents. Plaintiff has timely filed charges with the DFEH and has thus exhausted his
17 administrative remedies.

18 96. PwC maintains discriminatory policies, patterns, and/or practices that have an
19 adverse impact on applicants and prospective applicants ages 40 and older in violation of the
20 FEHA and are not, and cannot be, justified by a business necessity, including but not limited to
21 the following: its near-exclusive reliance on "Campus" track hiring to fill entry-level accounting
22 positions, its requirement that applicants for entry-level positions be currently affiliated with a
23 college or university, its failure to advertise the vast majority of open entry-level positions to the
24 general public, its preference for hiring and retaining "Millennials," and its mandatory early
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1 retirement policy. Even if such systems and/or policies could be justified by business necessity,
2 less discriminatory alternatives exist and would equally serve any alleged necessity.

3 97. PwC has maintained these discriminatory policies, patterns, and/or practices
4 within and outside the liability period in this case.

5 98. As a direct result of PwC's discriminatory policies and/or practices as described
6 above, Plaintiff and the class have suffered damages including, but not limited to, lost past and
7 future income, compensation, and benefits.

8 99. The foregoing policies, patterns, and/or practices have an unlawful disparate
9 impact on applicants and prospective applicants ages 40 and older in violation of California
10 Government Code sections 12940(a), 12941.

11 100. Plaintiff requests relief as hereinafter described.

12 **ALLEGATIONS REGARDING RELIEF**

13 101. Plaintiff and the class and collective members he seeks to represent have no plain,
14 adequate, or complete remedy at law to redress the wrongs alleged herein, and the injunctive
15 relief they seek in this action is the only means of securing complete and adequate relief.
16 Plaintiff and the class and collective members he seeks to represent are now suffering, and will
17 continue to suffer, irreparable injury from PwC's discriminatory acts and omissions.

18 102. PwC's actions have caused and continue to cause Plaintiff and class and collective
19 members substantial losses in employment opportunities, earnings, and other employment
20 benefits.

21 103. In addition, Plaintiff and class and collective members suffered and continue to
22 suffer emotional distress, humiliation, embarrassment, and anguish, all to their damage in an
23 amount according to proof.

104. PwC performed the acts herein alleged with malice, oppression, or fraud. Plaintiff and class members are thus entitled to recover punitive damages in an amount according to proof.

PRAYER FOR RELIEF

105. WHEREFORE, Plaintiff and the class and collective pray for relief as follows:

- (a) Certification of the case as a class action on behalf of the proposed class;
- (b) Designation of Plaintiff Steve Rabin as representative of the class;
- (c) Designation of Representative Plaintiff's counsel of record as class counsel;
- (d) A declaratory judgment that the practices complained of herein are unlawful and violate 29 U.S.C. §§ 621, *et seq.*; and California Government Code sections 12940, *et seq.*;
- (e) A preliminary and permanent injunction against PwC and its Partners, officers, agents, successors, employees, representatives, and any and all persons acting in concert with them, from engaging in policies, patterns, and/or practices that discriminate against Plaintiff and the class because of their age;
- (f) An order that PwC institute and carry out policies, practices, and programs that provide equal employment opportunities for all employees regardless of age, and that it eradicate the effects of their past and present unlawful employment practices;
- (g) An order appointing a monitor to ensure that PwC complies with the injunction provisions of any decree that the Court orders;
- (h) An order retaining jurisdiction over this action to ensure that PwC complies with such a decree;
- (i) An order for front pay benefits to Plaintiff and class and collective members;
- (j) Back pay (including interest and benefits) for Plaintiff and class and collective members;

- (k) All damages sustained as a result of PwC's conduct, including damages for emotional distress, humiliation, embarrassment, and anguish, according to proof;
- (l) Liquidated damages;
- (m) Exemplary and punitive damages in an amount commensurate with PwC's ability to pay and to deter future conduct;
- (n) Costs incurred herein, including reasonable attorneys' fees to the extent allowable by law;
- (o) Pre-judgment and post-judgment interest, as provided by law; and
- (p) Such other and further legal and equitable relief as this Court deems necessary, just, and proper.

JURY DEMAND

106. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and 29 U.S.C. § 626(c)(2), Plaintiff demands a trial by jury in this action.

Dated: San Francisco, California
April 27, 2016

Respectfully submitted,

By: /s/ Jahan C. Sagafi
Jahan C. Sagafi

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